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| 09/809,736 | 03/14/2001 | Takayoshi Kurita | 1503.65307 | 5363 |

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| EXAMINER |
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KLIMACH, PAULA W

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| ART UNIT | PAPER NUMBER |
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2135

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/809,736

Applicant(s)

KURITA, TAKAYOSHI

Examiner

Paula W Klimach

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This office action is in response to amendment filed on 11/26/04. Original application contained Claims 1-13. The amendment filed on 11/26/04 have been entered and made of record. Therefore, presently pending claims are 1-13.

Response to Arguments

Applicant's arguments filed 11/26/04 have been fully considered but they are not persuasive because of following reasons.

Applicant argued that Kimlinger et al does not address access management in the manner of the present invention. This is not found persuasive because Kimlinger addresses access management as disclose in column 8 lines 41-54.

Applicant argues further that Comerford does not disclose exclusion control unit controls access of a plurality of applications to a smart card. This is not persuasive. Comerford has a module that controls the access to the token (smart card). Comerford discloses access control to the token data by decrypting the token data only on allowed keys (column 5 lines 10-30).

Applicant argued that the examiner equates the application program with the control program of the system of Comerford. This is not found persuasive. The definition of application program is a program designed to assist in a specific task; therefore the control program is an application program because it is designed to assist in the specific task of implementing the subject control, as disclosed by the applicant.

Applicants clearly have failed to explicitly identify specific claim limitations, which would define a patentable distinction over prior arts.

Therefore, the examiner asserts that Kimlinger and Comerford do teach or suggest the subject matter broadly recited in independent Claims 1, 9-13. Dependent Claims 2-8 are also rejected at least by virtue of their dependency on independent claims and by other reason set forth in this office action. Accordingly, rejections for claims 1-13 are respectfully maintained.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1, 3-6, and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimlinger et al (6,360,952 B1) in view of Comerford et al (5,109,413).

In reference to claims 1, 9-12, Kimlinger discloses an access management system managing access to smart card a plurality applications (column 3 lines 37-38). The system responds to a request to access the smart card from an application (Fig. 4 A-I).

However Kimlinger does not disclose the exclusive access of the smart card and allowing access when the smart card when the application has already been authenticated.

Comerford discloses a system wherein the rights to execute software are conditional. On of the conditions to access software is the number of times of execution (column4 lines 21-26). By making a condition of execution of the software, the number of times that the software, when

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the number of times for execution of the software is only 1 then there is exclusive access to the token and disk (smart card), since the counter would go to zero (column 19 lines 5-22). This would be exclusive access of the smart card because after the application has executed no other application will be allowed access since the counter would be zero, and therefore the conditions for execution, would not allow the application to execute.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to include the conditions for execution as in Comerford in the system of Kimlinger. One of ordinary skill in the art would have been motivated to do this because it would provide the software vendor flexibility and therefore a return policy by being able to control the conditions of executing the software.

In reference to claim 3, wherein the access control unit rejects the access request from the application allowed the exclusive access if the application has not been authenticated for the smart card. The system disclosed by Comerford authenticates the token and therefore would not allow access if the token was not authentic.

Kimlinger does not disclose authentication of the token before the application executes.

The access control unit disclosed by Comerford suggests rejecting the access request from the application allowed the exclusive access if the application has not been authenticated for the smart card (column 18 lines 9-25). The system disclosed by Comerford authenticates the token and therefore would not allow access if the token was not authentic

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to include the authentication of Comerford in the system of Kimlinger. One of ordinary skill in the art would have been motivated to do this because it would provide the

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software vendor flexibility and therefore a return policy by being able to control the conditions of executing the software.

In reference to claim 4, wherein said access control unit manages authentication between an application and smart card using a process ID of the application.

Kimlinger does not disclose the use of the process ID of the application to authenticate the application.

Comerford suggest the use of the process ID of the application to manage the authentication between the application and the token (smart card) before execution. This is performed the application looking for the execution criterion and would therefore need the process ID to identify the application (column 19 lines 4-12).

In reference to claim 5, wherein said access control unit changes an application authenticated for a smart card into non-authenticated application when the smart card is extracted from a smart card reader (Fig. 4 C). Kimlinger discloses checking if there is a smart card in the reader before turning the smart card on, therefore suggesting that the smart card becomes non-authentic when it is extracted.

In reference to claim 6, wherein when said application accesses the smart card plural times, said application issues the exclusive access request to said exclusion control unit each time the access is started, and issues an exclusive access cancellation notification to said exclusion control unit each time the access terminates (column 9 lines 26-32).

Claim 2, 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kimlinger and Comerford as applied to claim 1 above, and further in view of Silberschatz.

In reference to claims 2 and 7, wherein the exclusion control unit queues an application that issues an exclusive access request in response an exclusive access request for the smart card from the application when the smart card has no logical channel exclusively accessed by another application.

Kimlinger and Comerford do not discloses the control unit queues an application that issues an access request.

Silberschatz discloses a monitor that uses a First Come First Serve Queue (FCFS) to control the access of one resource (pages 187-188).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use a queue to control the access of resources as disclosed by Silberschatz in the system of Kimlinger. One of ordinary skill in the art would have been motivated to do this because it would ensure that the process that waits the longest for the resource will be able to use it first.

In reference to claim 8, wherein the access control unit request a smart card to cancel authentication an application, in response to a smart card authentication cancellation notification from when the application authenticated for the smart card smart authentication application, last application

Kimlinger and Comerford do not disclose the access control unit request a smart card to cancel authentication an application, in response to a smart card authentication cancellation notification from when the application authenticated for the smart card smart authentication application, last application

Silberschatz discloses the release of a resource when the queue is ended and therefore the cancellation of the authentication application when the application is the last application (page 187).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to use a queue to control the access of resources as disclosed by Silberschatz in the system of Kimlinger. One of ordinary skill in the art would have been motivated to do this because it would ensure that the process that waits the longest for the resource will be able to use it first.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula W Klimach whose telephone number is (571) 272-3854.

The examiner can normally be reached on Mon to Thr 9:30 a.m to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PWK
Friday, April 08, 2005



KIM VU
SUPERVISORY PATENT EXAMINER
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